

Full Transcript Report

Designation Legend

MEHLMAN, MYRON A. PLF COUNTER Designations
US Steel Deposition Designation Mehlman

U.S. Steel's Designations Appear in Green

Plaintiffs' Counter-Designations Appear in Yellow

O = Overruled

S = Sustained

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01 IN THE CIRCUIT COURT
02 THIRD JUDICIAL CIRCUIT
03 MADISON COUNTY, ILLINOIS
04
05 RONALD E. AWALT, and *
06 RY AWALT *
07 *
08 . * No. 02-L-956
09 * (BENZENE) *
10 ALLIED SIGNAL CORPORATION,* ET AL *
11 * * * * *
12
13 ORAL AND VIDEOTAPED DEPOSITION OF
14 MYRON A. MEHLMAN, Ph.D.
15 December 11, 2003
16
17 * * * * *
18 Oral and Videotaped Deposition of MYRON A. MEHLMAN,
19 Ph.D., produced as a witness at the instance of the
20 Plaintiffs, and duly sworn, was taken in the
21 above-styled and numbered cause on the 11th day of
22 December 2003, from 10:36 to 12:47 p.m., before Tonya
23 Jackson, CSR, RPR, in and for the State of Texas,
24 reported by machine shorthand, at. Moody Gardens, 7 Hope
25 Boulevard, Galveston, Texas, pursuant to the Illinois
26 Rules of Civil Procedure and the provisions stated on
27 the record or attached hereto.

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01 Appearances:

02

03 R THE PLAINTIFFS:

04

05 . Herschel L. Hobson

06 SBOT No. 09744600

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08 2190 Harrison Street

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10

11 FOR RADIATOR SPECIALTY COMPANY:

12 Mr. Lawrence A. Lynn SBOT No. 12738250

13 Coats Rose

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16 uston, Texas 77002

17

18 FOR UNITED STATES STEEL and AMOCO:

19 Mr. Adam E. Miller

20 sch & Eppenberger

21 190 Carondelet Plaza, Suite 600 St. Louis, Missouri 63105

22

23 VIDEOTAPED BY:

24 Ms. Warriene Flatt Legal Images

25

26

27

28

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01 PROCEEDING S:

02 (EXHIBITS 1 THROUGH 4 MARKED)

03 THE VIDEOGRAPHER: We're on the record at
04 10:36 a.m.

05 (WITNESS SWORN)

06 THE REPORTER: State your agreement for
07 the record.

08 MR. HOBSON: Take it pursuant -- this
09 will be the Illinois Rules of Civil Procedure.

10 MYRON A. MEHLMAN, Ph.D.,
11 having been first duly sworn, testified as follows:

12 EXAMINATION

13 BY MR. HOBSON:

14 Q. Would you introduce yourself, please, sir.

15 A. My name is Myron A. Mehlman, M-E-H-L-M-A-N.

16 Q. And it's Dr. Mehlman, I believe.

17 A. Yes.

18 Q. And you have a -- what degree for the
19 doctorate?

20 A. I have a Ph.D. degree from Massachusetts
21 Institute of Technology.

22 Q. Dr. Mehlman, you and your wife have two
23 homes -- one in Princeton, New Jersey, and one here in
24 Galveston, Texas -- correct?

25 A. Yes.

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01 Q. And we're here in Galveston to take your
02 deposition today.

03 A. Yes.

04 Q. It's my knowledge that you used to work for
05 Mobil; is that right?

06 A. Yes.

07 Q. Would you give us the years of your employment
08 with Mobil, please.

09 A. From 1977 through 1969, I was director of
10 toxicology and environmental health. Then I became
11 director of toxicology and environmental health,
12 sciences laboratory manager, both
13 toxicology/laboratory.

14 Q. When you were working with Mobil, did you have
15 occasion to deal with the topic of benzene?

16 A. Yes. I was pretty much responsible for
17 measuring benzene exposure with Mobil employees and its
18 affiliates as well as identify the content of benzene
19 in various Mobil products -

20 Q. All right.

21 A. -- and products that were used by Mobil.

22 Q. And during your stint with Mobil, did you have
23 occasion, then, to receive and send correspondence
24 within the corporation?

25 A. Yes.

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01 Q. Doctor, I've got some documents that we've
02 marked as attachments to your deposition. They are
03 Exhibits 2, 3, and 4. Could I ask you to take those
04 sequentially, tell us what each one of them is? Let's
05 start with Exhibit No. 2, please.

06 A. Exhibit 2 is a memo to Paul Carl, with copies
07 to number of individuals in the laboratory and in
08 Beaumont refinery and myself as well as to William
09 Selfridge, who was in charge of employee relationship
10 for Mobil Oil Corporation. This exhibit describes -
11 this is a memo from Hergrueter, and it refers to a memo
12 from T.W. Gregg to me of October 6th -- this is 1977 -
13 where we requested that Liquid Wrench be analyzed for
14 the content of benzene as well as all other Mobil
15 products.

16 Q. All right, sir. And in this Exhibit 2 does it
17 indicate that you would have received a copy of this at
18 the time?

19 A. I did receive a copy of this at that time.

20 Q. All right, sir. Can you tell us -- identify
21 Exhibit 3, please.

22 A. Exhibit 3 is analysis of Liquid Wrench,
23 showing that it contains 30 percent of benzene.

24 Q. All right, sir. And Exhibit 4?

25 A. This is a memo concerning Liquid Wrench

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01 benzene content, showing the concentration of benzene

02 in Liquid Wrench by J.L. Wescoat.

03 Q. And the date on that memo, please?

04 A. October 12, 1977.

05 Q. And the date on Exhibit 3 was what, sir?

06 A. 10/5/77.

07 Q. When you left Mobil's employ, did you take
08 some documents that had been in your files at Mobil
09 with you or copies of them?

10 A. Yes.

11 Q. Can you tell me whether or not these documents
12 that are marked as Exhibits 2, 3, and 4, were those
13 documents -

14 A. Yes.

15 Q. -- part of them?

16 So, let me ask you if Exhibits 2, 3, and 4
17 have been continuously in your possession since you
18 worked for Mobil?

19 A. Since 1977.

20 Q. And is there any reason for you to think that
21 these are not true and correct copies of the originals?
22 MR. MILLER: Object to the form.

23 A. They're absolutely true and correct copies of
24 original documents.

25 Q. (BY MR. HOBSON) Is there any reason for you,

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01 Dr. Mehlman, to question the authenticity of these
02 documents?

03 A. No. They were authentic because I was at the
04 meeting where the subject matter was discussed, a
05 number of meetings.

06 MR. HOBSON: I pass the witness.

07 MR. MILLER: Why don't you go.

08 EXAMINATION

09 BY MR. LYNN:

10 Q. Dr. Mehlman, my name is Lawrence Lynn. I'm
11 here representing Radiator Specialty Company. I have
12 some questions for you.

13 Can you tell us what the purpose was for
14 Mobil's testing of Liquid Wrench?

15 A. When Occupational Safety & Health
16 Administration initiate emergency temporary standard of
17 1 part per million T.W.A., now known as T.L.V., it was
18 my responsibility to identify exposure levels of Mobil
19 employees in all the facilities as well as to identify
20 the concentration of benzene in all Mobil products as
21 well as any of the products that Mobil used. We have
22 done so on hundreds and hundreds of products, including
23 Liquid Wrench.

24 Q. In the course of making the determination as
25 to what benzene content, if any, may have been in these

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01 products, what was the procedure that was going to be
02 used?

03 A. We used Mobil technical services analytical
04 laboratory since my facility was not yet set up and
05 they conducted comprehensive gas chromatographic
06 analysis on all products to identify -- and they have
07 identified for us, means for toxicology and medical
08 department -- the concentration of benzene products
09 and, in fact, I recommended because of high
10 concentration of benzene that use of Liquid Wrench be
11 discontinued and apparently it appears in the memo.

12 So -

13 Q. Okay. Are you done with that answer?

14 A. Yes.

15 MR. LYNN: Object to the nonresponsive
16 portion.

17 A. I'm sorry. I didn't quite, then, understand
18 your question. What's the purpose? I thought I
19 explained.

20 Q. (BY MR. LYNN) Okay. Well, you talked about
21 the purpose earlier; and then we were talking about the
22 procedure.

23 A. Procedure was use of our analytical
24 facility -- sophisticated, entirely competent
25 analytical facility that can accurately determine

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01 benzene concentration in petroleum product or any other
02 product.

03 Q. Where was the facility located that was going
04 to do this testing?

05 A. In Paulsboro.

06 Q. Before I get to the Paulsboro testing, was
07 there any discussion of making inquiries with the
08 manufacturers of any products to see if they had done
09 any testing to find out if there was any benzene or the
10 concentration of any benzene in products being used by
11 Mobil?

12 A. Not that I recall. Besides, that wouldn't
13 have been my responsibility to go to manufacturers and
14 inquire.

15 Q. The Paulsboro lab, is that in New Jersey?

16 A. In New Jersey where -- within the Paulsboro
17 refinery.

18 Q. Did you personally take part in any of the
19 testing with any of these products?

20 A. No. I asked that they be tested.

21 Q. Can you describe for us your background and
22 qualifications with respect to testing procedures?

23 A. Training, I had some analytical chemistry,
24 organic chemistry, number of what -- physical
25 chemistry. I had a group of industrial hygienists that

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01 reported to me for a while, for about a year; and we
02 had some equipment later on in the laboratory that we
03 could do our own testing that was around 1980s. I was
04 sufficiently briefed at that time about methodology and
05 procedures that were used in analyze various
06 hydrocarbon components.

07 Q. Do you have any type of certifications or
08 degrees in testing?

09 A. No, I do not. I had individuals who worked
10 for me that had certification in various type of
11 testing.

12 Q. To break it down to layperson terminology, I
13 guess, do you have the qualifications to determine
14 whether or not the technicians in the lab are
15 performing tests properly?

16 A. Absolutely.

17 Q. And what is the basis for that?

18 A. I use a positive control and a negative
19 control, and we know a percent of recoveries. The
20 reason we went inside, because the testing in outside
21 laboratories was inadequate.

22 Q. Tell me what you mean by outside laboratories
23 being inaccurate.

24 A. Contract laboratories. When samples sent to
25 contract laboratories, I got variability in results,

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01 including of spike samples. So, immediately terminate
02 using of contract laboratories and went in-house where
03 results were reproducible. High recovery of samples
04 that we spiked, usually 95 to 99 percent or 101
05 percent; and blanks came out blank.

06 Q. Now, for a particular test, a particular
07 individual test, how do you make a determination as to
08 whether or not that particular test was accurate?

09 A. I rely on the quality of testing of Mobil
10 analytical laboratory, which was excellent. They had
11 many years of experience, and results that we got back
12 on thousands of samples were accurate.

13 Q. Would you expect results received from that
14 laboratory to be reproducible?

15 A. I would expect it, yes.

16 Q. Are there any protocols that exist for the
17 type of testing that was being done by Mobil with
18 respect to benzene?

19 A. There are protocols because Mobil routinely
20 tested for petroleum hydrocarbon, which would
21 include -- hydrocarbons, which would include benzene.

22 Q. And what are those testing protocols?

23 A. You need to ask the analytical laboratory.
24 They have them.

25 Q. So, you are not personally aware of what the

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01 protocols are?

02 A. I have seen them, but I don't remember. I
03 didn't make any effort to memorize something that
04 transpired 26 years ago.

05 Q. Would there be document -- let me withdraw
06 that question.

07 Should there be documentation as to the
08 protocol being utilized for a particular test so that
09 20 years later you can determine whether or not the
10 test was properly done?

11 A. The procedure and protocol should exist.

12 Q. In what form should they exist?

13 A. I don't know. You need to find out what form
14 was -- they exist now.

15 Q. When you received test results from this Mobil
16 testing program for benzene, did you at that time
17 review any of the protocols and compare them with the
18 tests to determine whether or not the tests were done
19 properly?

20 A. I did not. I had other people do it for me.

21 Q. Who would be the other people at Mobil who
22 would have been doing those checks?

23 A. The analytical chemists, the quality control.
24 We also have quality assurance program. When needed, I
25 requested that that be checked.

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01 Q. Can you provide us with the names of any of
02 the individuals who would have been checking the
03 testing done with respect to this Liquid Wrench test
04 that the documents reflect?

05 A. The names is on the memo. You can ask any of
06 the analytical chemists.

07 Q. When was the last time you spoke with any of
08 the people whose names are on that memo?

09 A. About 14 years ago -- 15 or 16 years ago,
10 maybe longer.

11 Q. Do you recall ever discussing the particulars
12 of this test with any of the gentlemen reflected on the
13 memos?

14 A. The only thing I recall is that we had
15 discussed that the concentration of benzene was high -
16 unusually high to be used without protective equipment;
17 and it was recommended that the product be discontinued
18 in the memo, as stated. So .

19 Q. Was there any discussion of verifying the test
20 to determine whether or not it was an accurate figure?

21 A. I am certain that the levels were accurate.
22 But did I discuss it? No.

23 Q. Why are you certain that the levels are
24 accurate?

25 A. Because they haven't made any mistakes and --

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01 on analysis for benzene, and they had a lot of
02 experience. They analyzed thousands of samples.

03 Q. Well, if you haven't checked the particulars
04 of the test or reproduced the test, then how do you
05 know mistakes haven't been made?

06 A. The quality of work was very high.

07 Q. You're assuming because of the general
08 reputation and experience with the quality of the
09 laboratory's work, that each individual test done by
10 the laboratory was accurate; is that correct?

11 A. I had no reason to question this analysis.
12 However, I did look, as I pointed out, at thousands of
13 samples that the laboratory did for me -- they did
14 thousands of their own samples -- and I find them to be
15 within range and acceptable and some of the samples we
16 split in two. I had my industrial hygiene split, and
17 the results came out very close together. So, I was
18 satisfied that the quality is very high.

19 Q. Was that done with any of the tests on Liquid
20 Wrench?

21 A. I don't know. I don't know that.

22 Q. Were any tests done of Liquid Wrench in the
23 labs at Beaumont?

24 A. I specifically don't recall if they did. They
25 may, but I don't recall that.

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01 Q. Okay. Do you know whether the testing done on
02 Liquid Wrench was a qualitative or a quantitative test?

03 A. All tests were quantitative.

04 4. For a quantitative test, would you generally
05 expect that if a substance is tested, the results will
06 show all of the components in the sample?

07 A. Depends what you're looking for. You can
08 show -- you can measure all the components, or you can
09 only measure one component and report one component.

10 Q. Do you know why the other components of Liquid
11 Wrench were not reported in this instance?

12 A. We only were interested in benzene
13 concentration because we're required by law -- in
14 nineteen -- I believe it was '77 emergency temporary
15 standard -- to determine the concentration of benzene
16 in all our products, especially petroleum hydrocarbon
17 products.

18 Q. The time period when this test would have been
19 done, do you know how the results would have been
20 reported to the testing people?

21 A. I thought testing people report the results to
22 someone else.

23 Q. Probably wasn't a good question. Let me back
24 up a little bit.

25 I want to talk a little bit step by step as to

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01 how this testing would have been done, if you know at
02 all. Do you know how the sample would have been
03 obtained?

04 A. No, I do not; and if I did at that time, I
05 wouldn't recall.

06 Q. Do you know whether generally accepted
07 scientific practices generally require that data be
08 maintained as to a sample -- where it came from,
09 information about that sample -- if a test is going to
10 be utilized for a scientific purpose?

11 A. We followed that practice on our benzene
12 samples. We had a good recordkeeping procedure and
13 documentation.

14 Q. So, do you believe that Mobil should have had
15 a record as to where the sample of Liquid Wrench was
16 obtained from?

17 A. They should -- they should, but you need to
18 ask the person who obtained the sample. I don't
19 remember who did that.

20 Q. Do you know what particular formulation or
21 variation of Liquid Wrench was utilized for this test?

22 A. No. Apparently it had to be some -- from
23 petroleum products because the benzene concentration
24 was very high. Well, coal -- petroleum or a coal tar
25 pitch, something -- not tar pitch -- coal distillation

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01 products. It was -- it was much too high to have come
02 from source like naphtha -- most naphtha is
03 substantially lower -- or kerosenes.

04 MR. LYNN: Object to the
05 nonresponsiveness.

06 Q. (BY MR. LYNN) Were you aware that Liquid
07 Wrench came in different formulations?

08 MR. HOBSON: Objection, form.

09 A. To some extent, yes, there were different
10 formulations.

11 Q. (BY MR. LYNN) Do you know which one was used
12 for this test?

13 A. No, I do not.

14 Q. Do you know what the chain of custody was
15 for -

16 A. No -

17 Q. -- the sample?

18 A. -- I do not.

19 Q. This chain of custody is something that should
20 be reported in doing a proper scientific test?

21 A. I used chain of custody. I don't know if it
22 should or shouldn't be at that time period; but
23 whenever I have my people gather the sample, we have
24 chain of custody and good records.

25 Q. Have you seen any records indicating the chain

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01 custody for this Liquid Wrench sample?

02 A. I wouldn't even -- if I had seen it, I
03 wouldn't recall it.

04 Q. If there were documentation regarding where
05 the sample was obtained in the chain of custody, where
06 would that be kept?

07 A. Oh, I don't know -- I have no idea where these
08 documents now would be kept.

09 Q. At the time when you were there, was there a
10 place where they were supposed to be kept?

11 A. Yes. We had the records and we transmitted
12 the records usually to the analytical laboratory or we
13 would have kept in our files.

14 Q. Okay,

15 A. We also would show these records to the
16 laboratory so they'll know -- so they can trace where
17 the sample has been, who handle it, and so on.

18 Q. Where precisely would the records be kept?

19 A. You would have to ask Mobil. I don't know
20 where they would be kept. They were kept in filing
21 cabinets when I was there. I don't know now where they
22 would be kept.

23 Q. Where were those filing cabinets located while
24 you were there?

25 A. '77, that would have been on 42nd Street in

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01 New York City. In 1977 that's what -- in medical
02 department.

03 Q. That would be at the Mobil headquarters in
04 New York?

05 A. That's right, forty-two forty -- I don't
06 remember exactly the number anymore.

07 Q. Have you seen any documentation as to whether
08 or not there was any possibility of the sample being
09 contaminated prior to testing?

10 A. I haven't seen any.

11 Q. Do you know whether any determination was made
12 as to whether or not the sample that was tested was a
13 typical sample of any formulation of Liquid Wrench?

14 A. I don't recall that.

15 Q. Okay. Do you know what testing equipment was
16 used to perform the test?

17 A. I don't recall this now. Usually gas
18 chromatographs.

19 Q. Did the gas chromatograph need to be
20 calibrated prior to testing?

21 A. It should be, yes.

22 Q. Do you know what calibration was done of any
23 particular equipment used to test this particular
24 sample?

25 A. Since I didn't do any of that work, you need

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01 to ask the analytical chemist that did the work.

02 Q. But you have no personal knowledge of any
03 calibration that was done of the equipment, do you?

04 A. I don't recall anything specific.

05 Q. So, you can't testify under oath that the
06 machine was properly calibrated at the time of testing,
07 can you?

08 A. All I can testify is that these are authentic
09 documents. We measured that along with hundreds of
10 other products. That's all I can say. And I have seen
11 them.

12 MR. LYNN: Object to the responsiveness.

13 Q. (BY MR_ LYNN) Can you testify under oath that
14 the equipment used to test the Liquid Wrench sample was
15 properly calibrated prior to testing, from your
16 personal knowledge?

17 A. I already answered that. No, I cannot.

18 Q. What would be the proper procedure for
19 calibrating the gas chromatograph?

20 A. I think you need to ask the analytical
21 chemists.

22 Q. So, you have no personal knowledge sitting
23 here today -

24 A. I do have -- excuse me. I didn't say that.
25 You need to ask; and if I do, I don't recall. It's

403,
cumulative

403,
cumulative
incomplete
question

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403,
cumulative
waste of time
no question
asked

01 been over 26 years since I used any of the equipment or
02 been instructed or familiarize myself with that
03 equipment. You ask me questions that are not in my
04 domain.

05 Q. And that's all we're trying to establish,
06 Doctor, is what you know sitting here today and what
07 you don't know.

08 A. I answered that several times, what I know and
09 what I don't know.

10 Q. Do you know whether there are any alternative
11 types of equipment that can be used to measure benzene
12 content in a sample of a product such as Liquid Wrench
13 other than a gas chromatograph?

14 A. There are alternatives. I don't recall what
15 they are.

16 Q. Do you know what the relative advantages or
17 disadvantages are of a gas chromatograph as opposed to
18 a different type of equipment that might be used for
19 the test?

20 A. A gas chromatograph is more precise. You can
21 get a more accurate analysis. Can use -- you can also
22 get at the same time many other components if you
23 choose so.

24 Q. Are there issues, when using a gas
25 chromatograph, as to a differentiation between benzene

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01 and cyclohexane?

02 A. I wouldn't recall. I know cyclohexane was
03 analyzed also in some products, but the issue isn't -
04 well, there may be time of retention; but I don't
05 recall at this time.

06 Q. Are you aware of whether or not there was any
07 analysis done to determine whether or not it was
08 benzene or cyclohexane that was being detected in the
09 test that's reflected in the documents you've brought
10 us here today?

11 A. I don't think that was an issue. The analysts
12 were -- they knew what they were doing. They had been
13 doing it for many decades, and they're highly
14 professional and experienced chemists that did the
15 analysis.

16 MR. LYNN: Object to the responsiveness.

17 Q. (BY MR. LYNN) Are you aware at all of any
18 issues that can arise when doing a test with a gas
19 chromatograph as to difficulties in distinguishing
20 between cyclohexane and benzene?

21 A. I don't recall at this point.

22 Q. Do you recall ever having any discussions with
23 anyone at Mobil or the labs about confirming whether or
24 not what was being reported as benzene was a benzene
25 result as opposed to cyclohexane?

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01 A. There was always a standard that's run that
02 could compare the specific substance to the one that's
03 being analyzed. I do recall that.

04 Q. Do you recall any questions at all regarding
05 cyclohexane in regard to this test?

06 A. I don't recall that.

07 Q. Do you know whether any additional tests are
08 needed to segregate cyclohexane and benzene results
09 when using a gas chromatograph?

10 A. I don't recall that.

11 Q. If any additional tests were done, would you
12 expect that there would be documentation of those
13 tests?

14 A. I would expect that there would be.

15 Q. As of the time that you were at Mobil in 1977,
16 where would those documents be kept?

17 A. Would be in a -- at -- in the files of the
18 analytical laboratory.

19 Q. Do you know what the retention policies were
20 with respect to documents at either Mobil's
21 headquarters or the analytical lab for keeping
22 documents for this type of testing?

23 A. I -- the retention policy, if I recall
24 correctly, was to keep -- at least the toxicological
25 documents that I can speak to, were to keep them for a

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01 very, very long time.

02 Q. Would you expect that if there were further
03 documentation of this Liquid Wrench test -- including
04 the protocols, the procedures used, any additional
05 tests done -- that those documents would have been
06 retained?

07 A. I can't answer that. You need to ask the
08 analytical laboratory people who were doing these
09 tests.

10 Q. From your testimony earlier, was a 30 percent
11 benzene level an unexpectedly high level?

12 A. I would say it's unexpectedly high level, yes.

13 Q. Were you surprised by that finding?

14 A. Somewhat. I thought the level was much higher
15 than many other products that I have seen.

16 Q. Did you do anything at that point to see if
17 the result could be verified?

18 A. No, I didn't -- I don't remember doing
19 anything except that we suggested that the product be
20 discontinued at this level of benzene.

21 Q. Did you request any further documentation
22 concerning the test to see whether or not there was any
23 indication whether there might have been any errors in
24 the test?

25 A. I did not request that. I don't think it was

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01 needed.

02 Q. Do you know whether there was a subsequent
03 test done to determine whether or not the results could
04 be confirmed?

05 A. My recollection, there was a -- another test
06 was done at a later date; and I don't recall
07 specifically what it was at this moment.

08 Q. Do you recall whether the 30 percent level was
09 ever reproduced?

10 A. I don't recall what -- if it was reproduced or
11 not.

12 Q. Now, 30 percent would be a high enough level
13 that is somewhat memorable; is that -

14 A. It was very --

15 Q. -- correct?

16 A. -- memorable, yes.

17 Q. If you saw another 30 percent test, do you
18 think you would have remembered that there was another
19 test out confirming the 30 percent?

20 A. Well, you're talking about 26 years ago. Not
21 necessarily at this moment. If I saw it at that time,
22 I may or may not; but I don't know. I don't recall
23 that.

24 Q. Do you think you would just remember the first
25 one but you wouldn't remember the confirming test?

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- 01 A. I don't recall at this moment.
- 02 Q. Okay. Do you remember seeing a test resulting
- 03 in a 7 percent level?
- 04 A. Yes, I do remember seeing that 7 percent.
- 05 Q. Okay.
- 06 A. Now that you mention, I do remember.
- 07 Q. Do you recall when the test that you had the
- 08 7 percent level was done?
- 09 A. No. It would be approximately the same period
- 10 of time.
- 11 Q. Do you know where that test was done?
- 12 A. I don't recall. There's a memo to that
- 13 effect, and I'm sure it's -- now that you mentioned it,
- 14 I do recall that.
- 15 Q. Do you recall whether it would have been the
- 16 same laboratory or a different laboratory?
- 17 A. I have to -- I don't recall. I have to look
- 18 at the memo and see who did that.
- 19 Q. Would it concern you at all that there would
- 20 be such a wide difference between two results?
- 21 A. No, I wouldn't be surprised. Depends on what
- 22 stock material is being used.
- 23 Q. What would account for the differences?
- 24 A. Well, it depends what's the source of your
- 25 material. If it -- if you use kerosene or sometime

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01 naphtha, the level would be substantially lower than
02 whatever was used in initial products.

03 Q. Okay. Well, if we're talking about two tests
04 done on Liquid Wrench -- one showing 30 percent, one
05 showing 7 percent -- if they're the same product, what
06 would you expect -

07 A. Excuse me. They're not the same product. The
08 name is the same, but the product is different.

09 Depends on the stock material that they used to put in
10 the product. They couldn't be the same product.

11 Q. So, do you have any way of knowing whether or
12 not -- even if the 30 percent test was accurate for the
13 particular sample it was done on, whether or not any
14 other sample of Liquid Wrench would result in the same
15 level?

16 A. I know that 30 percent was accurate at the
17 time it was measured; and if the sample -- a different
18 sample is taken with a different material that was put
19 in it, it would be different.

20 Q. Do you have any way of determining whether or
21 not it would be more likely that different samples of
22 Liquid Wrench would come to the 7 percent or the
23 30 percent?

24 A. I can't -- I don't know. I just -

25 Q. You would have to test each particular --

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01 A. That's right.

02 -- sample -

03 A. You need to -- well, the way that was
04 determined was test it. So, obviously there was one
05 sample at 30 percent and one sample at 7 percent.

06 Q. And not having -

07 A. From a different source.

08 Q. And you don't have personal knowledge as to
09 the source of the sample that resulted in the 30
10 percent, do you?

11 A. I don't recall that -- where it was obtained,
12 no.

13 Q. You don't have any personal knowledge as to
14 whether that came directly from a sealed container of
15 Liquid Wrench or whether it might have been a sample
16 that might have been mixed with something else, do you?

17 A. I don't recall the source. It's been a long
18 time, and I just don't recall. I'm sure it was
19 described to me at that time where they obtained, but I
20 don't recall that.

21 Q. Other than -- and let me ask you this: Do you
22 know what the sample size was that was tested?

23 A. The actual sample size would have been very
24 small, if you use gas chromatograph; but the sample
25 size from what it was taken, no, I don't recall.

611,
compound
400,
cumulative

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01 Q. Other than the one particular sample and
02 whatever that source was for that sample, you don't
03 know what the content of benzene in Liquid Wrench would
04 be in any other sample, do you?
05 A. No, I do not, unless it's tested.
06 Q. Okay.
07 MR. LYNN: Mark this.
08 (EXHIBIT 5 MARKED)
09 MR. LYNN: Do you need to take a look,
10 Herschel?
11 MR. HOBSON: From here it looks like
12 something that's already been marked.
13 THE WITNESS: Yeah, it's Exhibit 2.
14 MR. LYNN: Oh, is it the same?
15 THE WITNESS: Yes. Exhibit 2 is the same
16 as Exhibit 5, identical.
17 MR. LYNN: Okay. We hadn't put a date on
18 Exhibit 2 when we were describing it.
19 Q. (BY MR. LYNN) So, Exhibit 2 discusses a test
20 that was done on Liquid Wrench as well, correct?
21 A. Yes.
22 Q. And where was this test done?
23 A. The test was done in Paulsboro laboratory.
24 Q. So, this test would have been done same
25 location as the other test that you testified about?

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- 01 A. Which other test?
- 02 Q. The test that resulted in the 30 percent -
- 03 A. Well, that's 30 percent. We're talking -
- 04 Exhibit 2 is 30 percent.
- 05 Q. If it's the same document I'm looking at, it's
- 06 7 percent.
- 07 A. I don't have that document. You have both
- 08 documents that show 30 percent. This is dated
- 09 October 18, 1977, October 18 -- these are two identical
- 10 documents.
- 11 Q. Do you see there's an arrow drawn about
- 12 halfway or two thirds of the way down the page?
- 13 A. Yes. I see on the bottom, right.
- 14 Q. And what's that?
- 15 A. (Reading) It contained no fat, and ash content
- 16 was negligible. The aromatic solvent had the following
- 17 characteristics: Benzene, 7 percent by volume.
- 18 Right, that's the same document.
- 19 Q. Right. And there's a comment section below,
- 20 correct?
- 21 A. Yes.
- 22 Q. And what does the comment section say in the
- 23 first sentence?
- 24 A. It says that it's not as high as 30 percent.
- 25 Q. Okay. So, this is a 7 -- a test that showed 7

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01 percent, correct?

02 A. That's correct.

03 Q. This is not a test that showed 30 percent,
04 correct?

05 A. Yes.

06 Q. So, we're talking about two separate tests.

07 A. That's right.

08 Q. Do you know whether both tests were done at
09 the same laboratory?

10 A. To the best of my recollection, yes, they both
11 would have been done in the same laboratory.

12 Q. Did you ever look at any documents to
13 determine whether or not there were any differences in
14 the procedures that were done in the two tests?

15 A. Procedures were always the same with respect
16 to testing for benzene.

17 Q. Are you telling us that from your personal
18 knowledge or from a supposition that that's the way you
19 believe it was done?

20 A. No. I had enough experience, communication
21 with the laboratory about testing of samples on benzene
22 that procedures was followed essentially the same.

23 Q. Do you have a specific recollection with
24 respect to these two particular tests of having a
25 discussion or reviewing documents to determine step by

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01 step whether or not these two tests were performed the

02 same?

03 A. I don't recall that.

04 Q. Do you know whether or not the same sample was

05 used for both tests?

06 A. I doubt it very much. It's different samples.

07 Q. Is there any explanation at all as to what the

08 differences would be that would result in a 30 percent

09 result in one test and 7 percent in another?

10 A. Different products, different sample.

11 Q. And do you know of any determination that was

12 ever done by Mobil as to whether or not the 30 percent

13 test or the 7 percent test more accurately reflected a

14 typical or average sample of any particular formulation

15 of Liquid Wrench?

16 MR. HOBSON: Objection, form.

17 A. I didn't quite understand your question.

18 Could you repeat that?

19 Q. (BY MR. LYNN) Okay. You had two results.

20 One said 30 percent; and one said 7 percent, correct?

21 A. Okay.

22 Q. Was there ever any discussion as to whether or

23 not -- making a determination as to whether either of

24 those was a more typical result or sample of Liquid

25 Wrench?

403, S
no answer
waste of time

403, C
cumulative
delay

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01 A. I don't recall. All we are interested, that
02 the product had more than 1 percent of benzene.

03 Q. And as far as you can tell, if another sample
04 of Liquid Wrench was tested, it might come out with a
05 completely different result again, correct?

06 MR. HOBSON: Objection, form.

07 A. That's possible.

08 Q. (BY MR. LYNN) And to the best of your
09 knowledge, there was no effort made to obtain every
10 different formulation or variation of Liquid Wrench to
11 determine the benzene content in each one of them, was
12 there?

13 MR. HOBSON: Objection, form.

14 A. I'm not aware of that. If it is, the people
15 who provide the samples should be able to answer that.

16 Q. (BY MR. LYNN) Now, we talked earlier on in
17 the deposition about being able to reproduce a result.
18 Do you have any concerns at all that the result from
19 the first test was not reproduced in the second test?

20 A. Two different samples. I don't know how you
21 can reproduce result from two different samples.

22 Q. And I take it there was no effort made to -

23 A. Unless you do the same sample. And I'm
24 positive it wasn't the same sample.

25 Q. And do you know whether or not any portion of

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01 the source for the first sample was retained and
02 available to be retested to determine whether or not
03 the 30 percent test was accurate?

04 A. You need to ask the analytical chemists.
05 People that would be very knowledgeable is Paul Carl
06 and Gerard.

07 Q. During the time that you were at Mobil, did
08 you keep track of other tests being done by other
09 people as to different types of substances being used
10 at Mobil?

11 A. Yes.

12 Q. Did you keep track of any other testing done
13 of Liquid Wrench?

14 A. Not that I recall.

15 Do you ever remember seeing any reports from
16 any source outside Mobil stating that Liquid Wrench had
17 as high as 30 percent benzene content?

18 A. I don't recall that. And if I had went
19 through -- I had average of several thousand documents
20 per month. So, it would be difficult to keep track of
21 a specific product unless I have direct interest in it;
22 and I did not.

23 Q. In your time since leaving Mobil, have you
24 kept track of literature and testing done of various
25 products with respect to benzene concentrations?

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01 A. Yes.

02 Q. Do you recall seeing in any of the literature
03 that you've ever reviewed any report of Liquid Wrench
04 having a benzene content as high as 30 percent?

05 A. I don't recall any concentration of most of
06 the products.

07 Q. Now, the testimony you're giving today is with
08 respect to Mr. Awalt's case. Have you reviewed any
09 records at all regarding Mr. Await or his alleged
10 exposure?

11 A. No. I don't even know what case this is.

12 Q. So, I take it by that that you would have
13 absolutely no way of knowing whether or not any Liquid
14 Wrench that Mr. Await might have used would have had
15 anything in common with any of the Liquid Wrench that
16 was tested in the two tests that we've discussed today;
17 is that correct?

18 A. I have no idea what you're asking me. I have
19 no information on the case or who are defendants,
20 except now I just learned what's the nature of the
21 case.

22 Q. Doctor, this is not the first case that you've
23 provided testimony for, is it?

24 A. That's correct.

25 Q. How many cases have you testified in before?

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- 01 A. Altogether, probably between 50 to 70.
- 02 Q. Would that have been depositions in those
- 03 cases, trial testimony, or both?
- 04 A. Both.
- 05 Q. How many cases in which you gave a deposition
- 06 but did not testify at trial?
- 07 A. A lot.
- 08 Q. Okay. Can you give us an approximate number?
- 09 A. No, I can't. I didn't keep track.
- 10 Q. Do you recall about how many cases that you
- 11 actually testified at trial?
- 12 A. No, that -- because -- I appeared at trial.
- 13 Lot of time it settled. I got certified as an expert.
- 14 The case got settled before I -- the last one I was in,
- 15 and I didn't have a chance to give any testimony.
- 16 Q. Okay. But do you have any recollection as to
- 17 approximately how many cases you've actually given your
- 18 testimony at trial?
- 19 A. Oh, I can tell you two or three -- trial? At
- 20 least one maybe, trial cases
- 21 Q. When you testify, do you generally testify for
- 22 plaintiffs or defendants in cases?
- 23 A. Generally for plaintiffs.
- 24 Q. And do you know what types of defendants have
- 25 generally been sued in those cases?

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relevance
408,
settlements

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01 A. They're all types -- petroleum companies,
02 chemical companies, and spillage. I really don't
03 recall what type of defendants because it's difficult
04 to say. Sometimes a list of defendants is so large
05 that I don't even read it except the first one.

06 Q. Do you recall giving any testimony concerning
07 Liquid Wrench before?

08 A. I probably did, but I don't recall where or
09 when.

10 Q. Do you recall the general substance of any of
11 your prior testimony concerning Liquid Wrench?

12 A. No, I don't recall that.

13 Q. Are you being paid for your work on this
14 particular case?

15 A. No, I don't think so. I -- no one mentioned
16 any money.

17 MR. HOBSON: As you know, Dr. Mehlman is
18 being presented as a fact witness.

19 MR. LYNN: I had been told that he had
20 been designated as a fact and expert witness. Is that
21 incorrect?

22 MR. HOBSON: As far as I know it is.

23 THE WITNESS: An expert?

24 MR. HOBSON: No, as a fact witness.

25 MR. LYNN: Okay.

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01 Q. (BY MR. LYNN) Did you review any documents
02 prior to your deposition this morning?

03 A. No -- perhaps I did review some documents this
04 morning, but has nothing to do with this case or any
05 case Mr. Herschel Hobson is dealing with. It has to do
06 with hematological cancer that's caused by benzene.

07 MR. HOBSON: He gave me a recent
08 B publication.

09 Q. (BY MR. LYNN) Okay. Did you have any
10 discussions with Mr. Hobson or anyone at his office
11 prior to this deposition concerning this case or your
12 testimony?

13 A. No. I haven't spoken with Mr. Herschel Hobson
14 for a long time.

15 Q. Are you aware of any incidents or cases in
16 which any results from the laboratory that performed
17 the test we've been talking about today have been
18 questioned or challenged?

19 A. I'm not aware of any challenges to the Mobil
20 analytical laboratory.

21 THE WITNESS: Herschel, could you pass
22 some water, please?

23 MR. HOBSON: Sure.

24 THE WITNESS: Thank you. Thank you.

25 Q. (BY MR. LYNN) Do you know whether any of the

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01 individuals that participated in the actual testing are
02 still employed by Mobil?

03 A. To the best of my -

04 MR. HOBSON: Objection, form.

05 A. I don't know the name that -- the names that
06 I'm very familiar with is Gerard. I don't know if he's
07 still there or not. He might be. Paul Carl, I worked
08 with him very closely. He was a senior manager. And
09 Selfridge, I know that he's not. I -- I can't answer
10 that. I really don't know. I know who's not.
11 Selfridge wouldn't be. He was pretty old when I worked
12 with him.

13 Q. (BY MR. LYNN) Do you know if Mr. Carl is
14 still living?

15 A. That's good question. I don't know. I ...

16 Q. And the last you had of any knowledge of
17 Mr. Carl, was that still while he was at Mobil?

18 A. Yes. And I've been following Mobil World that
19 lists people who have been deceased, and I don't
20 remember seeing his name.

21 Q. And you haven't heard of him being anywhere
22 else other than Mobil, have you?

23 A. I think he would retire from Mobil. He had
24 been with Mobil for maybe 40 years or so.

25 Q. Do you know who M.H. Meynig is, M-E-Y-N-I-G?

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01 A. He's not on this list, is he?
02 MR. HOBSON: I think he's on this
03 document here.
04 A. Oh, okay. This -- I'm sorry. That's a
05 different document.
06 Name is familiar, but I don't know if he -
07 he's -- it's from analytical laboratory. It could be
08 from Beaumont, but I don't know. I don't recall who he
09 is.

10 Q. (BY MR. LYNN) And do you know J.L. Wescoat?
11 A. I know his name. I may have met him, but I
12 don't recall if I met him. I went to Beaumont several
13 times and -- but specifically I don't recall.
14 Q. Do you know what his job title was back in
15 1977?
16 A. No, I do not.
17 Q. Okay. Was he working at the Beaumont
18 facility,
19 A. Yes, I believe so.
20 Q. Do you know what department he was in?
21 A. He would -- no, I do not know. I don't recall
22 what department. If I met him, I would have known; but
23 I wouldn't remember specific -- individuals in specific
24 departments.
25 Q. Do you know what his role would have been in

403,
waste of
time

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waste of
time

01 this testing program?
02 A. I do not know, but could have been -- he
03 certainly -- I don't think he was industrial hygienist
04 because he would have reported to me.

05 Q. On the document that we were just looking at
06 that had Mr. Meynig's name on it, there's some
07 handwritten initials about two thirds of the way down
08 the page on the right. Do you recognize any of those
09 initials?

10 A. No, I do not.

403,
waste of
time

11 Q. Earlier on I started asking you about how
12 results were reported and there was some confusion on
13 that and that's whenever we started talking about

14 procedures. The document that we've been looking at
15 today with the 30 percent finding has got just a
16 handwritten result on it, correct?

17 A. Yes.

18 MR. HOBSON: Objection, form.

19 Q. (BY MR. LYNN) If a gas chromatograph is used,
20 would the test result be printed off in some form or
21 would it -- how would the people doing the testing see
22 the result?

23 A. I believe it would be printed off.

24 Q. Okay. So, would you expect that there would
25 be a document someplace in some kind of mechanically

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01 printed form that would contain the results from the
02 test that was performed on the Liquid Wrench sample?
03 A. It would be -- by "printed off," I mean charts
04 from which the levels could be calculated or
05 computerized. Would I expect they'll be someplace?
06 Can't answer that. At this point in time, I don't know
07 what's -- who would have what where.

08 Q. Okay.

09 A. It's too many years past.

10 Q. And would you have expected that in 1977 there
11 would be documents existing that would contain the test
12 results from the test performed on the Liquid Wrench
13 sample?

14 A. On any samples I would expect that.

15 Q. Do you know what the retention policy for that
16 type of document would be?

17 A. I don't know what the analytical retention
18 policy but I do know I have a small section in
19 Paulsboro, toxicology section, Fred Feasley, and he
20 retained everything going back to early 1950s. So, I
21 was able to get documents that I need on testing and
22 discussions 25 years -- well, 1950s -- it would be 54
23 years now, but at that time it would have been 25 years
24 back.

25 Q. And you said that gentleman's name was Fred

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01 Feasley?

02 A. Feasley, F-E-A-S-L-E-Y.

03 Q. And he was at the Paulsboro lab?

04 A. Yes. He reported to me.

05 Q. Do you know whether he is still employed by
06 Mobil?

07 A. No, he's not employed by Mobil.

08 Q. Do you know --

09 A. He's deceased.

10 Q. Okay.

11 A. He'd been with Mobil probably between 40 and
12 50 years.

13 Q. Do you know who his successor at Mobil might
14 have been?

15 A. No, I -- he would not have a successor.

16 Q. Do you know whether the facility in which he
17 worked is still existing?

18 A. Yes. The laboratory, the refinery is still in
19 Paulsboro.

20 Q. And do you know in what way he kept the
21 records that he kept?

22 A. Filing cabinets.

23 Q. And at the time in 1977, would you have
24 expected that there would have been a file kept with
25 the records showing test results from this type of

403,
cumulative

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403, cumulative

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01 testing?

02 A. In 1977, yes.

03 Q. Did you ever see any documentation concerning
04 the Liquid Wrench test other than the handwritten
05 result that we've looked at here today?

06 A. I don't recall what I have seen.

07 Q. We spoke earlier that the 30 percent finding
08 would have been an unusually high finding. Do you know
09 whether any attempt was made to discuss that finding
10 with the manufacturers of Liquid Wrench?

11 A. I don't recall if any attempt was made or was
12 not. I'm not aware of that -- at least I don't recall.

13 Q. If you or anyone else at Mobil felt that there
14 was a health risk as a result of the finding with
15 respect to Liquid Wrench, did you think that that was
16 something that should be communicated to anyone outside
17 Mobil?

18 A. I hope that it was -- certainly must be
19 communicated to the employees and people who use it.
20 Was it communicated to manufacturers? I have no -- I
21 don't have no knowledge of that. I mean, that would be
22 by the products people. They were aware of the
23 concentrations.

24 Q. Who would the products people be that were
25 made aware of the testing?

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01 A. I don't recall their names. There were lot of
02 products people.

03 Q. Do you have any personal knowledge as to
04 whether or not Radiator Specialty Company, who produced
05 Liquid Wrench, was ever informed of the 30 percent test
06 result?

07 A. I have no knowledge of that.

08 MR. LYNN: Pass the witness at this time.

09 EXAMINATION

10 BY MR. MILLER:

11 Q. Dr. Mehlman, good morning.

12 A. Good morning, sir.

13 Q. My name is Adam Miller. I represent United
14 States Steel, and I have some questions for you this
15 morning.

16 Dr. Mehlman, are you familiar with any
17 evaluation or review of Mobil's analytical testing
18 laboratories or practice, any survey to evaluate the
19 consistency of the results that its laboratories
20 obtained in its testing?

21 A. Specifically, no, not at this time.

22 Q. All right. I'm asking about something like an
23 audit. Was it your recollection that Mobil would
24 periodically audit its analytical laboratories for the
25 purpose of assessing whether or not its laboratories

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01 were conducting evaluations using good laboratory
02 practice and consistently following the appropriate
03 protocols?

04 A. First of all, the good laboratory practice
05 didn't come into effect until later. I don't recall
06 anything specific at this time. I know we looked for
07 accuracy and reproducibility. That I'm aware of, but
08 anything else I don't recall.

09 Q. All right. You mentioned in your last answer
10 that good laboratory practice did not come into effect
11 until after 1977; is that correct?

12 A. I'm not too sure when it came, but we
13 immediately implemented it. It may have come -- in
14 toxicological area it came a little later. That was
15 after I.B.T. scandal, which was Industrial. Bio-Test
16 Laboratory in Chicago, which they got indicted. They
17 always produced desirable results for the industry.
18 For example, mice that died on Friday reoccurred on
19 Monday. They became alive. We called them Jesus mice.
20 Graphic methods were used to generate data, and the
21 person of that company I do recall went to jail.

22 MR. MILLER: I'm going to move to strike
23 your response as being unresponsive.

24 (BY MR. MILLER) Let me reask the question
25 again.

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01 A. All right.

02 Q. You're familiar with the term "good laboratory
03 practices"?

04 A. Yes, I am.

05 Q. Is there a technical meaning or a meaning of
06 the phrase "good laboratory practice" that's recognized
07 in the field of analytical chemistry?

08 A. I don't recall.

09 Q. All right. Were there standards of good
10 laboratory practice adopted in the industry at some
11 point in time, Doctor?

12 A. My recollection that there were standards, but
13 what they are I don't recall.

14 Q. Do you recall when those standards became
15 effective or had been adopted in the analytical
16 chemistry?

17 A. No, I do not, no.

18 Q. So, you don't know whether at the time the
19 test results that we've been talking about today were
20 conducted in the laboratory under standards of good
21 laboratory practice; is that correct?

22 MR. HOBSON: Objection, form.

23 A. All I know and I recall that they have high
24 standards in performing their work in terms of
25 accuracy.

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01 Q. (BY MR. MILLER) I understand that, Doctor;
02 but what I'm asking is whether or not there were
03 standards for laboratory practice that were recognized
04 in the industry that had been adopted by Mobil at the
05 time of the testing that's reflected in the documents
06 we've talked about today.

07 A. I don't recall that.

08 Q. Okay. Thank you, Doctor.
09 Doctor, is it your testimony today that every
10 single test result obtained from Mobil's analytical
11 laboratories was accurate?

12 A. Every single one? It's -- I never testified
13 to that. I said by and large, to the best of my
14 knowledge, all the results that were done for me were
15 accurate.

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16 Q. Let me ask that question again, sir, because I
17 don't think you specifically answered my question. Is
18 it your testimony that every single analysis conducted
19 by Mobil's analytical laboratories were accurate?

20 A. I can't swear to that, that "every single."
21
22 go ahead.

23 Q. Can you tell me the percentage of analyses
24 conducted by the Mobil analytical laboratories during
25 the time period that you were with Mobil -- can you

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01 tell me the percentage of those results that were
02 accurate?

03 MR. HOBSON: Objection, form.

04 A. As far as I'm concerned, they were all
05 accurate.

06 Q. (BY MR. MILLER) Do you have any objective
07 data or information that would identify the percentage
08 of test results that were accurate?

09 MR. HOBSON: Objection, form.

10 A. If I had any, I wouldn't recall that. I -
11 they were accurate, because we checked our samples,
12 what they did for us. The benzene analyses were
13 accurate. I split samples in two, I put in blank
14 controls, we spiked samples, and we run standards with
15 it.

16 MR. MILLER: I'm going to move to strike
17 your answer as nonresponsive.

18 A. I thought it was very responsive. How we
19 did -- you asked me how -

20 Q. (BY MR. MILLER) Excuse me. Sir, there's no
21 question pending. Thank you.

22 Sir, is it your testimony that for every
23 single analytical test run by Mobil in the 1977 time
24 period, the appropriate or recognized protocols were
25 followed?

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01 A. I can't answer your question because the test
02 sampling that were done for me, procedures were
03 followed -- I sent people to check in addition to
04 myself -- and the results were accurate.

05 Q. Who are the people that you sent to check on
06 the analytical chemists?

07 A. Feasley was one of them because he located on
08 the facility and had tremendous amount of knowledge.
09 There are other people that I sent to have these
10 results checked. There -- I had several other
11 industrial hygienists. I don't even remember the name
12 but I send them to Paulsboro and they spent time with
13 them looking at it and I was called constantly. That I
14 recall.

15 Q. Sir, how is it that you are satisfied that the
16 results from the testing that we've talked about here
17 today with respect to Liquid Wrench were properly
18 interpreted?

19 A. Because all the other results, samples that we
20 sent for analysis -- and these were several thousand
21 samples -- were accurate. I did not send Liquid
22 Wrench. I requested that be tested. I sent thousands
23 of other samples to be tested.

24 Q. Doctor, do you know the limits of detection
25 for gas chromatography that was used in the testing of

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01 the Liquid Wrench reflected in the documents we've

02 talked about today?

03 A. I don't recall specifically; but if sample is

04 very concentrate, you dilute it. You keep on diluting

05 it till you get within a range that can be measured

06 accurately.

07 Q. Is there a rate of error for gas

08 chromatography in the 1977 time frame that you're

09 familiar with?

10 A. There is, but I don't remember what it is.

11 Q. Is there any extent of variability that might

12 result from test to test of a split sample, for

13 example? Can you expect some variability in gas

14 chromatography?

15 A. Yes.

16 Q. What is the extent of that variability?

17 A. On my samples they were within 3 percent, the

18 ones that I split; but I don't know what it was and

19 what range.

20 Q. Could it have been higher?

21 A. It could be.

22 Q. I understand that -- from your prior testimony

23 today that you have no knowledge about Mr. Awalt's

24 occupational history; is that correct?

25 A. I don't know who Mr. Await is. The first time

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01 I heard his name is right here.

02 Q. I want to hand you what has been marked
03 Exhibit No. 1, and this is a notice to take discovery
04 deposition --

05 A. Okay.

06 Q. -- in the Ronald Awalt case.

07 A. I didn't even look at that. I looked at the
08 second part.

09 Q. Okay. That notice is for your deposition here
10 today; is that correct?

11 A. Yes.

12 Q. All right. And you understand now that this
13 case relates to a gentleman by the name of Ronald
14 Awalt?

15 A. No, I don't understand that. That's just what
16 I see here. I had no idea what's the case or anything
17 about the case.

18 Q. All right. I understand from your earlier
19 testimony today that you had some responsibility at
20 Mobil for evaluating exposures to benzene for workers
21 in Mobil's own facilities.

22 A. Yes.

23 Q. And can you tell me how it is that Mobil
24 assessed, during your tenure there, potential exposures
25 to benzene for its own workers?

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01 A. You put equipment on the workers and tubes
02 that -- and for whatever period of time they worked,
03 different periods of time, you measured the areas where
04 they worked and the level of benzene in these areas.

05 Then be extrapolated, seeing that it's only 1 part per
06 million of benzene or less they would be inhaling that.
07 We calculated that to eight -- to eight-hour average.

08 So, what you do, I take it -- or what -
09 strike that.

10 What Mobil did during your tenure there as
11 director of toxicology and environmental health is to
12 conduct actual measurements of benzene in the work
13 environment in which benzene exposed workers actually
14 conducted their work.

15 A. That's correct.

16 Q. And, then, I take it that you took those
17 samples and extrapolated to I think what we call a time
18 weighted average -

19 A. Yes.

20 Q- -- to evaluate the concentration that a worker
21 might be exposed to over the course of an eight-hour
22 workday.

23 A. Yes.

24 Q. And I take it that part of that process is, as
25 we said, to put measurement devices actually within the

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Q. heterogeneous; is that?

Q A Yes

Q Statutory-ordinance

Q1 elastomer of polyisobutylene

Q travkennet.

Ⓞ A Yes

Q Do you feel that the Board is doing a good job?

 \otimes

⑨ health care by a dermatologist

10 take just the amino group of

1 ~~desired individual~~ ~~code~~

12 ~~national~~ ~~interests~~?

B A ~~Idol~~

14 Q What does she just send him

Б ~~неформальные сексологи~~

16 ~~celebrity?~~

7 A Intellectual Property

B ~~højtektiddele-tesis.50ta~~

19 ~~to be used~~ ~~for~~ ~~the~~ ~~purpose~~ ~~of~~ ~~the~~ ~~test~~ ~~it~~ ~~is~~ ~~to~~ ~~be~~ ~~the~~

2) action itself.

2 Q Bt-

2 A Eddy/lot-

23 Q But the effect of this process is solely

24 ~~an~~ ~~are~~ ~~description~~ ~~of~~ ~~the~~ ~~two~~ ~~des~~ ~~in~~ ~~ters~~

2. of a long time ago?

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01 A. I don't -- probably. I just don't recall
02 specifically that what -- where it comes back to.

03 Q. How would you describe that process where you
04 take a sampling device and put it in the breathing zone
05 of the worker and put the worker in his ordinary job
06 and have him -- and evaluate those exposures?

07 A. We had to purchase special equipment, and

08 B recall a number of monitors. I guess that would be
09 dosimetry, yes. I had to buy over a hundred additional
10 monitors. I just recall that. Couldn't remember.

11 Q. So, the process is called dosimetry.

12 A. Yes.

13 Q. Or the mechanism of doing these evaluations.

14 A. Yes.

15 Q. Do you recall ever conducting dosimetry on --
16 or using Mobil workers who were involved in vehicle
17 maintenance?

18 A. I don't recall specifically. We conducted
19 measurements on all type of occupation -- mechanics,
20 probably electricians, just people working around
21 the -- many different places.

22 Q. Do you recall whether Mobil -- during the time
23 that you were director of toxicology and environmental
24 health, do you know whether Mobil conducted dosimetry
25 of individuals using Liquid Wrench?

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01 A. I don't know. I can't answer that. I
02 wouldn't -- I don't recall that.

03 Q. Other than gas chromatography, which I believe
04 you've described for us earlier today, do you know
05 whether Mobil, during the time you were director of
06 toxicology and environmental health, attempted to
07 evaluate a worker's exposure to Liquid Wrench -- to
08 benzene in Liquid Wrench in his ordinary workplace?

09 A. I don't recall that specifically.

10 Q. Have you ever seen any results of dosimetry or
11 the evaluation of benzene exposure to a worker using
12 Liquid Wrench in his real work environment?

13 A. I don't recall.

14 Q. And I take it that you're not providing
15 testimony in this case about what the results of that
16 dosimetry would be for a worker using Liquid Wrench in
17 his ordinary work environment; is that correct?

18 A. I'm not providing any testimony except to the
19 authenticity of these documents.

20 Q. Okay. Sir, have you ever observed a worker
21 using Liquid Wrench?

22 A. No, at least not consciously that I'm aware
23 of.

24 Q. I take it that you may have incidentally
25 observed the use of Liquid Wrench.

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01 A But I didn't know it.

02 Q So, I didn't know it because

03 of the fact that you said it was

04 how we used to be in his day, so, the only thing that

05

06 from the fact that it was

07 A No -- not that I'm saying that.

08 Q Okay, with respect to the water

09 stuff, with respect to the water, when you

10 were in the water, did you know that

11 that, was that the fact that you

12 were in the water, did you know that

13 that, was that the fact that you

14 were in the water, did you know that

15 A I don't -- I don't know if it was that

16 that, but it was a possibility.

17 Q What about the fact that you

18 were in the water, did you know that

19 that, was that the fact that you

20 were in the water, did you know that

21 A I don't -- I don't know. I don't

22 know. I don't know. I don't know.

23 already.

24 Q (BTR MUE) As you sit here today, can

25 you think of a letter that you sent to

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01 worker's exposure to benzene in his work -- in his
02 precise work environment?

03 MR. HOBSON: Objection, form.

04 A. It's not something I do. It's not part of my
05 job; so, I can't think of anything. If I heard of some
06 better procedures, I don't recall. I'm sure I did in
07 some of the benzene meetings that I attended, but I
08 didn't make any effort to retain that information.

09 Q- (BY MR. MILLER) In 1977 when you were
10 conducting an evaluation of Mobil employees' exposure
11 to benzene in their workplaces, did you use any
12 methodology other than dosimetry for the purpose of
13 making those assessments?

14 A. I don't recall using anything else.

15 Q. I take it you were satisfied with the results
16 that you could obtain from dosimetry for the use in
17 making estimates of a worker's overall exposure to
18 benzene in the precise work environments in which he
19 worked.

20 A. I was satisfied because the exposure in
21 refineries were very low. The average is less than
22 tenth of a part per million. We need to know only the
23 areas that exceed on that 1 part per million. And
24 we're also satisfied because we measured in many
25 different facilities, both U.S. and outside; and the

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01 results were consistent from different facilities. So,

02 that adds a lot to credibility of your test result.

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03 Q. With respect to the specific analyses that
04 we've talked about today, those that reflect in the
05 documents that we've marked of benzene content of
06 Liquid Wrench at 7 percent and 30 percent, do you know
07 whether split samples were taken of these particular
08 samples for the purpose of comparing the results?

09 A. I -- I don't recall how they're -- how samples
10 were taken, were they split or duplicate. I don't
11 recall.

12 Q. Was it the standard practice for the Mobil
13 laboratory that -- or Mobil's analytical laboratories
14 to take split samples for the purpose of comparing
15 samples taken from a single source?

16 A. I don't recall. I know I did divide some of
17 my samples in duplicate to see how they compare. If
18 they did split, then there would be four analyses in a
19 single sample.

20 Q. But again, you don't have any information with
21 respect to these particular tests -

22 A. I -

23 Q. -- to know whether splits were done?

24 A. That's right.

25 Q. Or if they were done, what the results were?

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01 A. I don't know.

02 Q. Okay. You indicated that on occasion spiked
03 samples would be used for the purpose of conducting
04 analytical tests for benzene?

05 A. That's right.

06 Q. Can you describe for me what a spiked sample
07 is?

08 A. Sure. You put a known amount of diluted
09 benzene in a sample and you split the samples in two
10 and you put in two of them and see what percent
11 recovery, especially you do a blank and you find -- if
12 you put, say, 5 parts per billion, you want to see how
13 much of that is recovered; or you also want standard.
14 Different concentration of benzene you provide three or
15 four samples -- usually four -- with different levels
16 and see how that analysis comes out; and then you run
17 some blanks and see that you don't find any benzene in
18 it. If you come in with blank that shows benzene
19 concentration, you would worry about it.

20 Q. Were spiked samples used for the analyses that
21 we've talked about today --

22 A. Don't know.

23 Q. -- with respect to Liquid Wrench?

24 A. I just -- that is -- don't know.

25 Q. All right. Do you have any objective evidence

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01 that would suggest that the specific Liquid Wrench
02 tests that we've talked about today are -- or were at
03 the time repeatable and reproducible?
04 A. I have no idea if they repeated them or
05 reproduced them.

06 Q. We were talking a moment ago about evaluating
07 worker exposure in the environment in which that worker
08 conducts his workday. You remember that discussion
09 generally?

10 A. Yes.

11 Q. We were talking about using dosimetry.
12 It's possible, is it not, to use a product
13 even if it had 30 percent benzene, a Liquid Wrench
14 product with 30 percent benzene, and have a time
15 weighted average exposure to benzene in the workplace
16 less than 1 part per million?

17 MR. HOBSON: Objection, form.

18 A. I would say it's very unlikely with that
19 concentration that you will have that low exposures;
20 and if it's used equip -- to clean the equipment, I
21 would say very unlikely that it would be so low.

22 Q. (BY MR. MILLER) What's your understanding of
23 how Liquid Wrench is used?

24 A. Cleaning equipment. It's a good cleaning
25 agent; and I'm not sure if it's used in radiators, to

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01 clean the radiators. I don't have extensive knowledge
02 about Liquid Wrench.

03 Q. When you say to clean equipment, do you know
04 how it would be applied for that purpose?

05 A. No. If I did know at one time, I don't
06 recall.

07 Q. Do you know how much Liquid Wrench would be
08 used for that purpose?

09 A. No, I do not.

10 Q. Okay. And I take it you would have no
11 familiarity with what a worker might use in terms of
12 quantity of Liquid Wrench in any given day.

13 A. That's right. I do not -- I'm not familiar at
14 this time.

15 Q. Do you know what crafts would use Liquid
16 Wrench?

17 A. I think it would be used -- car mechanics,
18 people who work with the equipment.

19 Q. For cleaning?

20 A. Cleaning. That's all that I recall.

21 Q. And certainly you don't have any information
22 about how Mr. Awalt used Liquid Wrench.

23 A. I have no information about Mr. Await at all.

24 Q. Okay. Let's talk about vehicle mechanics.

25 Have you ever observed vehicle mechanics throughout

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01 their workday for the purpose of assessing the
02 materials they use, the quantity of those materials, or
03 the frequency with which they use those materials?

04 A. No.

05 Q. Do you know whether any kind of study of that
06 nature was undertaken by Mobil with respect to Liquid
07 Wrench?

08 A. I do not know. One of my industrial
09 hygienists may know, but I do not know.

10 Q. Okay. In the documents that you brought today
11 to the deposition and which have been marked, is there
12 any discussion about how Liquid Wrench would have been
13 used at any of Mobil's facilities in the 1977 time
14 period?

15 A. If it was 26 years ago, I wouldn't remember
16 that.

17 Q. Well, not only would you not remember it, sir;
18 but it's not reflected in the documents; is that
19 correct?

20 MR. HOBSON: Objection, form.

21 A. That's correct.

22 Q. (BY MR. MILLER) Let me reask that. Is there
23 any reference in the documents that you brought about
24 how Liquid Wrench is used by Mobil employees -- or was
25 used by Mobil employees in the 1977 time period?

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01 A. I do not see that in the documents.

02 Q. All right. You don't know whether it was used
03 indoors or outdoors?

04 A. I do not know. It could be -- well, obviously
05 it could be used indoors, if you are a mechanic and
06 working at a gas station, and outdoors. Depends on the
07 weather conditions.

08 Q. And it depends on the kinds of equipment that
09 you're cleaning or using the Liquid Wrench on.

10 A. That's right.

11 Q. Some pieces of equipment can't be brought
12 inside.

13 A. That's right.

14 Q. Do you know the duration of exposure to
15 benzene in Liquid Wrench that an individual would
16 experience using Liquid Wrench in the manner that you
17 believe it's used for?

18 A. Depends on how long it -

19 MR. HOBSON: Excuse me. Objection, form.

20 Now you may answer.

21 A. Depends on how long the equipment is being
22 cleaned. It could be anywhere from ten minutes to
23 couple hours. I don't -- I just don't know. I don't
24 understand these questions, I'm here only to certify
25 that the documents are authentic. All of this, it

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01 seems to me, leads to looking for an expert analytical
02 chemist and industrial hygienist, which I'm not going
03 to testify to that. I'm not going to testify at all
04 except to one fact.

05 MR. HOBSON: By the way, you've pointed
06 out already that Dr. Mehlman is not being paid. You've
07 wasted now two hours, in my humble opinion, going over
08 things that he -- you've asked a whole series of
09 questions about Liquid Wrench use after he says "I
10 don't remember seeing it being used," "I don't know how
11 it's used," all that sort of thing. If you're going to
12 go any further, I'd ask that you compensate Dr. Mehlman
13 his usual rates if you want to use him for his
14 testimony. I think you've beat a dead horse to death
15 again. Are we about done?

16 MR. MILLER: Yeah, we are. This kind of
17 discussion is just making things a little more
18 prolonged.

19 MR. HOBSON: Well, it does because you've
20 already prolonged it too long.

21 MR. MILLER: I'm going to move to strike
22 your previous response in the record as being
23 nonresponsive.

24 MR. HOBSON: What was it, by the way?
25 What did he say?

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01 MR. MILLER: He said something completely
02 different from the answer that would have been
03 responsive.

04 MR. HOBSON: Great.

05 A. I just don't understand -- I said I don't
06 understand these questions because I'm not here to
07 testify on anything that you had asked me.

08 Q. (BY MR. MILLER) Okay. I understand that,
09 sir. I -

10 A. Anything you want to ask about hematological
11 effect of benzene and injury and levels, I'll be glad
12 to spend whatever time you want discussing it.

13 Q. Again, Doctor, there's no question pending
14 now.

15 Sir, are you aware of the extent to which -
16 I'm sorry. Hold on just a second.

17 Doctor, are you aware of the extent to which
18 other hydrocarbon substances in a sample might
19 interfere with a determination of the quantity of
20 benzene in that sample?

21 MR. HOBSON: Objection, form.

22 A. I don't recall. I know some discussions
23 were -- took place around that subject matter, and
24 some -- and it was explained to me that there was some
25 modification in columns to get cleaner separations.

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01 Q. (BY MR. MILLER) Do you know the extent to
02 which that interference may have affected the
03 reliability of the samples and the results that are
04 reflected in the documents that you've brought to the
05 deposition today?

06 A. Well -

07 MR. HOBSON: Objection, form.

08 A. I don't think the reliability is affected in
09 analyzing from benzene. I think the procedures that
10 they -- Mobil analytical laboratory established was
11 just as good as anybody in the world can do. They
12 discussed it with, long time ago, the American
13 Petroleum Institute meeting with some other oil
14 companies; and they knew of high quality of work that
15 our analytical division or sections -- we had more than
16 one -- were doing. So, I don't think that is even in
17 question.

18 Q. (BY MR. MILLER) I just have a few more
19 questions for you.

20 A. Okay.

21 THE WITNESS: Can we take two-minute
22 break?

23 MR. MILLER: Absolutely.

24 THE WITNESS: Thank you.

25 THE VIDEOGRAPHER: We're off the record

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01 at 12:12.

02 (A BREAK WAS TAKEN)

03 THE VIDEOGRAPHER: We're back on the

04 record at 12:16.

05 Q. (BY MR. MILLER) Sir, I want to hand you what
06 has previously been marked today as Exhibit No. 3. Can
07 you read the notation and handwriting down at the
08 bottom?

09 A. "Liquid Wrench."

10 Q. I'm sorry. Can you read the two lines there?
11 Not just the last line.

12 A. Okay. I suspect this is (reading) please
13 attach -- whatever that word -- I don't know what it
14 is. I can read the last line, and I can read (reading)
15 attach reference Liquid Wrench.

16 Q. It's not entirely legible; is that correct?

17 A. That's right. Some attachments -- it is
18 either to be as an attachment, or some additional
19 attachments may have been attached.

20 Q. And let me ask you this: The very top of this
21 document seems to reflect, aside from the fax notation
22 and other markings, that this may be an attachment
23 itself?

24 A "Attachment II." It's -- that's what it says.

25 Q. Do you know what document this particular

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Q Did that ever make him feel like he was

at fault?

A No, I don't feel it. I probably was at fault

to conduct, but I don't feel

Q It is possible that he was, in fact, at fault and that Milus was

Q

Q 1977 time?

A I--I don't--

Q MR. MEHLMAN, what is that?

Q (MR. MEHLMAN) I know, I don't know

Q Did that ever make him feel like he was

Q Milus was in the 1977 time?

A I never saw him. I never saw

Q I never saw

Q Do you know the date of this

particular case? Any other date?

A It says "In the Matter of" and it

and it says "In the Matter of" and it

it says "In the Matter of" and it

it says "In the Matter of" and it

Q But when you look at the date

of "In the Matter of" and it says

that date?

A That's correct, with my guess

that date.

US Steel
Deposition
Designation Mehlman

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01 Q. If you had your glasses, would you be able to
02 read that?

03 A. I don't know. I have the -- then I will
04 answer the questions if I -

05 Q. Do you know whose handwriting this is?

06 A. It's someplace on the bottom, but I can't read
07 that. There's a stamp, individuals who routinely get
08 copies of these, and the person has signed, but it's
09 not legible to me.

10 Q. So, you don't know who wrote out this
11 information on this document that we've marked as
12 Exhibit 3; is that correct?

13 A. That's correct, but it's addressed to two
14 Mobil people. One is to Beaumont refinery -- I suspect
15 he might also be in Beaumont refinery, but I don't
16 know.

17 Q. Do you know whether these results came from an
18 analytical laboratory in Beaumont?

19 MR. HOBSON: Objection, form.

20 A. Don't know. I don't think so. I think it
21 probably came from -- it was addressed to two
22 individuals at Beaumont refinery. I believe most
23 likely Paulsboro.

24 Q. (BY MR. MILLER) I take it you don't know that
25 for sure, though; is that correct?

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01 A That's correct.
02 Q Was Bullock a letter handler, in your
03 estimation, in terms of techniques and standards and
04 protocols?
05 MR. HOSKIN: Objection, form.
06 Q (BY MR. MILLER) Than the Ramot letter handler?
07 MR. HOSKIN: Objection, form.
08 A Yeah, I don't know if I can say it's
09 letter. All I know is that the handler in Bullock
10 analytical section was very good. They did a lot of finesse in terms of picking up on the
11
12 Q (BY MR. MILLER) Did the group rely on the
13 Bullock handler for the purposes so that it
14 did on the handler in Ramot?
15 MR. HOSKIN: Objection, form.
16 A Well, they were letter equipped. They had
17 more people, letter equipment, more space.
18 Q (BY MR. MILLER) Would you be able to say--
19 well, state that.
20 The 3 percent-- hence report value that
21 appears on Exhibit 3, is it possible that that could be
22 the report value as a result of spiking the liquid
23 Wren for the purpose of an analytical test?
24 A Noway.
25 MR. HOSKIN: Objection.

MEHLMAN,
MYRON A. PLF
COUNTER
Designations

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01 A. No way. I mean, the spiking was only done by
02 my section before the sample went to the analytical
03 laboratory.

04 Q. Do you know when the tests of WD-40 and Liquid
05 Wrench were made -

06 A. From -

07 Q. -- that are reflected in Exhibit 3?

08 A. Is there a date? It was in 1977, and this
09 note was sent on 10/4/77. It was probably done a few
10 days before that.

11 Q. Is there any indication that -
12 Or the same day.

13 Q. Is there any indication on this document that
14 reflects the duration of time that may have lapsed
15 between when the samples were tested and when this
16 document was prepared?

17 A. No. When something is handwritten, it's
18 usually the same day, but I can't be certain of that.

19 Q. Best person to answer that question would be
20 the author himself?

21 A. Or one of the individuals that received it.

22 Q. Okay.

23 A. And they -- I think one of them is probably
24 still at Mobil in Beaumont.

25 Q. I just have a few more questions for you, and

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01 then I'll be finished.

02 We were talking earlier about airborne

03 concentrations of benzene resulting from the use of

04 this Liquid Wrench product, and I wanted to ask you:

05 The reason why you do air monitoring in the specific

06 work environment is because it's the work environment

07 that -- that varies for each worker in ways that affect

08 their overall exposure to benzene; is that correct?

09 MR. HOBSON: Objection, form.

10 A. Yes.

11 Q. (BY MR. MILLER) Whether the environment is

12 indoors or outdoors, whether it's poorly ventilated or

13 well-ventilated, the environment really makes an

14 important difference in the potential for exposure; is

15 that correct?

16 A. Yes, and also proximity of individual from the

17 sample. Example, if you top load barges, you get a

18 huge exposure of hydrocarbon vapors; and certainly

19 benzene levels can vary out to 150 or maybe even more

20 parts per million because you inhale the vapors.

21 Q. And the proximity of the individual to the

22 application and the duration of time he stays in the

23 vicinity of that application, all of that's important

24 in assessing a worker's exposure?

25 A. Yes.

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01 Q. Air flow from the near field to the far field
02 and vice versa, that's important in assessing a
03 worker's exposure?

04 A. Yes.

05 Q. In other words, whether the air is static or
06 moving, that's an important feature in assessing -

07 A. Right, it makes a difference. The
08 concentration would be lower if the air is moving. The
09 concentration would be higher if the air is static.

10 Q. The frequency of use makes a difference in an
11 individual's -

12 A. Well, it's only a matter of how much he's
13 exposed. The more you use, the more exposure. We can
14 determine that in terms of total PPM years. We
15 calculate the time. Otherwise, you can't compare one
16 worker's exposure from the other one.

17 Q. Right. And, so, overall -- strike that.
18 That's, I believe, beyond the -- where we're headed.

19 MR. HOBSON: Shouldn't have stopped you.

20 It hasn't yet.

21 MR. MILLER: What's that?

22 MR. HOBSON: I said it shouldn't have
23 stopped you. It hasn't yet.

24 Q. (BY MR. MILLER) The temperature of the work
25 environment may make a difference?

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01 A. Yes.

02 Q. Humidity may make a difference?

03 A. Yes.

04 Q. Temperature of the workplace may make a
05 difference?

06 A. Yes. If the equipment is sprayed -- if the
07 solvent is sprayed on it or solvent kept in it, it will
08 make a big difference how much the material will
09 evaporate and how much a person will inhale.

10 Q. And that's why you evaluate the work
11 environment and not the product the individual is using
12 to assess a worker's exposure.

13 MR. HOBSON: Objection, form.

14 Q. (BY MR. MILLER) Is that true?

15 A. That's one of the ways, yes.

16 MR. MILLER: That's all the questions I
17 have for you, sir. Thank you.

18 REEXAMINATION

19 BY MR. HOBSON:

20 Q. Dr. Mehlman, let me see if I can clarify a few
21 things.

22 Air sampling will not evaluate a worker's
23 exposure to his skin for benzene, will it?

24 A. No, because you have a contact that's
25 substantial exposure from dermal contact.

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01 Q. So, would -

02 A. And also possibly inhalation, if he didn't -
03 ingestion, if he doesn't wash his hands and he takes
04 food in. So, there's three ways a worker could be
05 exposed: Primarily through inhalation, second through
06 dermal absorption, and third through ingestion.

07 Q. And you at Mobil also did something called
08 biological monitoring for benzene, did you not?

09 A. Yes, we did.

10 Q. What does that mean, "biological monitoring"?

11 A. Monitoring means we measured the level of
12 benzene in individuals, how much he could expire in his
13 breath or we could take a blood sample or urine sample
14 and determine what metabolites from benzene would be
15 excreted this way. You can calculate how much benzene
16 was taken in.

17 Q. And that would be a reflection of the total
18 dose, not just what you breathe, correct?

19 A. Yes. You usually determine total dose for a
20 worker because breathing is only one of the ways that
21 he is exposed.

22 Q. And did Mobil use, also, something called
23 medical monitoring for its benzene exposed workers?

24 A. Yes. That was essential. We had people who
25 were exposed to one or more parts per million required

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01 to undergo physical examination, to take more frequent
02 blood tests. I think it -- well, we had a policy to
03 that and procedure that is developed by medical
04 department to do medical monitoring to see if any
05 changes in his blood parameters; or if we see any
06 decrease in various blood cells, you remove the worker
07 from the job category because he may be more
08 susceptible.

09 Q. Have you seen evidence that medical monitoring
10 and biological monitoring for workers potentially
11 exposed to benzene in the workplace goes back into at
12 least the 1950s?

13 MR. MILLER: Objection, form.

14 A. It goes back all the way, but I'm not sure for
15 nineteen -- if I can recall specifically 1950. It goes
16 back at least I recall in the 1960. In fact, the
17 medical director at Beaumont has had that program --
18 one of them, that he was still there -- he was there
19 for quite awhile in 1976, '77 when I joined Mobil.

20 Q. (BY MR. HOBSON) So, at least to 1960 at
21 Mobil, you know about those.

22 A. That I have seen, yes, sir.

23 Q. I wanted to ask you -- you were asked some
24 questions about the use of Liquid Wrench at Mobil and
25 also about air sampling concerning Liquid Wrench usage

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01 at Mobil. Do you remember those questions generally?

02 A. Yes.

03 Q. If you'll look at exhibit -- well, I'll just
04 pick Exhibit 5, which is the same as one of the other
05 exhibits, same as Exhibit 2.

06 A. Yes.

07 Q. All right. Exhibit 2 or 5, on the second
08 page, you see in the first paragraph it says "We
09 suggest that the use of the material be discontinued
10 and an alternate be found"?

11 A. That's correct. I remember it because we
12 discussed the situation -- the products with above
13 1 part per million of benzene, we should find
14 alternatives.

15 Q. And is that something generally known as
16 substitution?

17 A. Correct.

18 Q. And substitution is where you take a material
19 that has a hazardous property and substitute for it one
20 that will do the same job but doesn't have the toxic
21 property?

22 A. That's correct.

23 Q. Now, if your advice at Mobil was taken here in
24 October of 1977, would there be any need to do any air
25 sampling for Liquid Wrench at Mobil facilities after

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01 October, 1977?

02 MR, MILLER: Strike that -- I -- object

03 to the form.

04 A. If the product was no longer used, there's
05 nothing to be monitored.

06 MR. HOBSON: Thank you, Dr. Mehlman.

07 That's all I have.

08 REEXAMINATION

09 BY MR. LYNN:

10 Q. Just a couple of quick follow-ups. Take a
11 look at this document.

12 A. Let's see.

13 Q. Doctor, I handed you back Exhibit No. 4.
14 don't think we really talked too much about that
15 document.

16 You are not shown as a recipient or copied on
17 that document, were you?

18 A. That's correct.

19 Q. When did you first become aware of this
20 document?

21 A. I would say October, 1977.

22 Q. In what circumstance would it have been
23 brought to your attention?

24 A. Anything that had to do with benzene would be
25 given to us because at that time I was responsible for

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01 establishing policy and monitoring and making
02 recommendation on all subject matters related to
03 benzene.

04 Q. Do you know who R.E. Bistline is?

05 A. I don't recall his name. E.P. Medlin,
06 certainly name is coming back to me; but I don't know
07 what his job was.

08 Q. Do you recall E.D. Keiper?

09 A. No, I don't recall the name; but I'm sure I
10 knew these people -- or their name -- by names at
11 least.

12 Q. Do you know who Doug Leitch is?

13 A. Who?

14 Q. Doug Leitch, the first -- at the beginning of
15 the paragraph of the text, it says "Doug Leitch advised
16 me." Do you know who Doug Leitch is?

17 A. No, I'm not sure who he is. They had 30,000
18 employees; and many of them were in products, safety,
19 and different divisions, production, manufacturing.
20 So, I don't remember his name.

21 Q. That's okay. The document mentioned that
22 there was another company's concern about potential
23 benzene concentration in Liquid Wrench. Do you know
24 what other company they were talking about?

25 A. No, I do not know that.

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01 Q. Okay. You see the last sentence of that first
02 paragraph says that "This information was relayed to
03 Corporate Safety for their confirmation and
04 recommendations." Do you know who at corporate safety
05 would receive this type of information at that time
06 frame?

07 A. Oh, yes, yes. That would be a lot of people.
08 I knew everybody at one time in corporate. Dave Miller
09 would be the head of corporate safety.

10 Q. Do you know anybody else that might have been
11 told about this?

12 A. No. I would say there were number of other
13 people. I don't remember their names, but I -- the
14 name that came back to me who -- is David Miller, who
15 was the head of that department. He was corporate -
16 in charge of corporate safety.

17 Q. Do you know whether corporate safety was ever
18 able to confirm the findings that were sent to them?

19 A. I don't know.

20 Q. And Mr. Hobson just asked you some questions
21 about substitution of products. Do you recall that
22 testimony?

23 A. Yes.

24 Q. Was there a concern that if there was a
25 product with greater than 1 percent benzene content

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01 that was being used, that that would require
02 monitoring?

03 A. I think that was the requirement, that medical
04 monitoring would be required of concentration above 1
05 percent, 1 or above.

06 Q. And when there were discussions about
07 substituting another product for Liquid Wrench, do you
08 know if that was in order to avoid having to comply
09 with monitoring requirements?

10 A. No, it was because the benzene exposure was
11 too high, which means that somebody else can get
12 injured, develop leukemias, lymphomas, or any other
13 type of cancers; and that presents tremendous liability
14 on part of the company.

15 MR. MILLER: I'm going to move to strike
16 the last response as being absent foundation.

17 (EXHIBIT 6 MARKED)

18 THE VIDEOGRAPHER: Excuse me. While
19 you-all are looking at that, can I change the tape,
20 please?

21 MR. LYNN: Sure.

22 THE VIDEOGRAPHER: Okay. Going off the
23 record. The time is 12:37.

24 (A BREAK WAS TAKEN)

25 THE VIDEOGRAPHER: Back on the record at

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01 12:38.

02 Q. (BY MR. LYNN) Doctor, can you please describe
03 the document that was handed to you as Exhibit 6, for
04 the record?

05 A. A memo to number of people from C.W. Phillips,
06 benzene in Liquid Wrench.

07 Q. What's the date of the document, for the
08 record?

09 A. November 29, 1977; and this was mailed by
10 Wescoat, Wescoat -- coat, Wescoat.

11 Q. Okay. In the middle paragraph -

12 A. I see that, yes.

13 Q. -- they talk about recommending -- or saying
14 that "You may wish to replace 'Liquid Wrench' with a
15 low-benzene content material." Do you see that part?

16 A. Yes.

17 Q. Okay. The last sentence of that paragraph,
18 what does it say about why that substitution might be
19 done?

20 A. "This product has been analyzed by Research's
21 Analytical Department and was found to contain 0.01
22 weight percent benzene. Thus, its use would not be
23 covered by the Emergency Temporary Standard."

24 Q. Okay. And does the emergency temporary
25 standard relate to monitoring?

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01 A. Emergency temporary standard was a way to
02 implement benzene starting it immediately until the
03 full standard is developed.

04 Q. All right.

05 A. It relates to essentially everything that
06 benzene standard relates to.

07 Q. Okay. But the -- it's that standard that
08 would require the monitoring be done.

09 A. Yes.

10 Q. And in the Exhibit 5 or Exhibit 2 -- we have
11 duplicates there -- on that second page that Mr. Hobson
12 was discussing with you, it again mentions that where
13 you've got a product containing more than 1 percent
14 benzene, you then have to take into consideration
15 requirements that monitoring be done, correct?

16 A. Yes.

17 Q. Does it say anywhere on the document there
18 that -- well, on either of those two documents -- that
19 the substitution of a lower or nonbenzene containing
20 product was being recommended to make sure that the
21 workers weren't being exposed?

22 A. I'm sorry. I didn't quite understand your
23 question you suggested.

24 Q. Okay. The document mentions that substitution
25 should be made to bring the levels down below the

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01 threshold for monitoring, correct?

02 A. Yes, an alternative should be found, same
03 thing, substitution.

04 Q. Now, the document does not say we should be
05 substituting these materials because it's more healthy
06 for the workers, does it?

07 A. Well, if you lower the level, it implies that
08 it will be safer product. It doesn't mean it's safe,
09 but certainly it would be considerably safer.

10 Q. But when the words were chosen to go into the
11 corporate documents that we're looking at here today,
12 the concern that was reflected by the words used in the
13 documents was the monitoring requirement; is that
14 correct?

15 A. That's what the document says by this
16 individual who wrote it.

17 MR. LYNN: That's all my questions.

18 Thank you.

19 MR. MILLER: I just have quick follow-up.

20 (EXHIBIT 7 MARKED)

21 REEXAMINATION

22 BY MR. MILLER:

23 Q. Mr. Mehlman, I'm going to hand you what I've
24 marked as Exhibit No. 7 and ask if you can identify
25 this document for me, please.

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01 A. Yes. The subject here is "Benzene Monitoring
02 Program, Submission of Samples."
03 Q. It's dated August 18, 1977?
04 A. Yes.
05 Q. And you were a recipient of this document?
06 A. Yes.
07 Q. And it was authored by Lester Levin; is that
08 correct?
09 A. Yes.
10 Q. And it refers to periodic benzene monitoring
11 that was ongoing at that time in Mobil facilities?
12 A. Yes.
13 Q. Was that monitoring similar to the dosimetry
14 that we talked about earlier in this deposition?
15 A. Yes.
16 Q. Okay. And do you know how frequently this
17 monitoring or dosimetry was being conducted by Mobil at
18 that time?
19 A. Oh, I don't recall. That was a -- they did a
20 lot of monitoring. Lester Levin worked for me.
21 Everything he did he reported to me and got my
22 approval, including acquisition of equipment,
23 personnel.
24 Q. I take it from this document and your
25 recollection that Mobil was conducting dosimetry on a

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01 periodic basis of employees who were working in
02 environments that may be contaminated with benzene.

03 A. Very limited before the emergency temporary
04 standard and very few samples, not as frequently as
05 became necessary to do after 1977 Federal Register
06 publication of emergency temporary standard on benzene.

07 Q. What was the date of the publication of the
08 emergency temporary standard?

09 A. It's in Federal Register, and I think the
10 date -- I don't know the date. I can give you the
11 Federal Register number. It's 1910.1028. I'm sure I
12 have many copies of that.

13 Q. Was the sampling that's discussed in what
14 we've marked as Exhibit No. 7, the Lester Levin -

15 A. Levin.

16 Q. -- memorandum, being conducted by Mobil in
17 response to the emergency temporary standard?

18 A. That's correct.

19 Q. And in August of 1977, was Liquid Wrench
20 available for use by Mobil employees in its facilities?

21 A. I can't answer that. I don't know.

22 Q. Was the recommendation made -- in the
23 documents we've looked at today made after August of
24 1977?

25 A. I can't tell you what month. I just don't

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01 know.

02 Q. We talked earlier in the deposition about
03 recommendations from individuals at Mobil to substitute
04 other products for Liquid Wrench.

05 A. Then, it would be after emergency temporary
06 standard.

07 Q. The October 12, 1977, memorandum, for example,
08 refers to a recommendation for substituting products
09 for Liquid Wrench.

10 A. That's correct.

11 Q. Were there individuals who were monitored
12 using dosimetry, as we've discussed earlier in the
13 deposition, being -- strike that.

14 There were individuals who worked with Liquid
15 Wrench in Mobil facilities that had been monitored for
16 their benzene exposure prior to the recommendation for
17 the substitution of that product?

18 MR. HOBSON: Objection, form.

19 A. I don't know. I don't know. The person who
20 can answer that -- that would be in Mobil records
21 because individual by different job categories would be
22 listed and their exposure.

23 Q. All right.

24 MR. MILLER: I don't have any further
25 questions, sir. Thank you.

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01 MR. HOBSON: Completes the deposition.
02 THE WITNESS: Thank you.
03 THE VIDEOGRAPHER: We're off the record
04 at 12:47.
05 THE REPORTER: Do you want to read and
06 sign?
07 THE WITNESS: Yes, I do.

08
09 (THE DEPOSITION WAS CONCLUDED)

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